

## Message Text

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ACTION L-03

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC NIACT IMMEDIATE 5769

DEA HQS WASHDC NIACT IMMEDIATE

DEPARTMENT OF JUSTICE NIACT IMMEDIATE

AMEMBASSY CARACAS

LIMITED OFFICIAL USE BRASILIA 7414

E.O.11652: N/A

TAGS: SNAR, BR

SUBJECT: EXTRADITION OF FRANCISCO ULISES SCOCOZZA-VALIENTE

REF: BRASILIA 7413

FOLLOWING IS INFORMAL TRANSLATION OF THE ATTORNEY  
GENERAL'S OPINION TO THE SUPREME COURT IN SUBJECT  
CASE:

EXTRADITION REQUEST NO. 330 - U.S.

A. RAPPORTEUR: MINISTER LEITAO DE ABREU

REQUESTING PARTY: U.S. GOVERNMENT

EXTRADITEE: FRANCISCO USLISES SCOCOZZA-ALIENTE

EXTRADITION

I - DOUBT RELATIVE TO THE IDENTITY OF THE  
EXTRADITEE, IMPOSSIBLE OF BEING ELIMINATED BY THE  
REPORT.

II - ABSENCE OF THE CHARACTERISTICS OF THE ACTS  
ATTRIBUTED TO THE EXTRADITEE INCONFORMANCE WITH  
BRAZILIAN PENAL LAW (DECREE LAW 941/69, ART. 88,II).

OPINION FOR THE DENIAL OF THE REQUEST.

1. INVOKING THE SPECIFIED BILATERAL TREATY, THE  
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U.S. GOVERNMENT REQUESTED THE EXTRADITION OF

FRANCISCO ULISES SCOCOZZA-VALIENTE, AN URUGUAYAN CITIZEN. THE FEDERAL POLICE DEPARTMENT IMPRISONED SCOCOZZA-VALIENTE, PRESUMING TO DEAL WITH THE SAME PERSON, AND HAVING SENT OT THE U.S. AUTHORITIES THE PHOTOGRAPH OF THE DETAINEE, OBTAINED CONFIRMATION OF HIS IDENTIFICATION BY TESTIMONY WHICH WAS SUBSEQUENTLY PRESENTED TO THIS COURT FOR EXAMINATION.

2. AS MATERIAL OF THE DEFENSE IT IS AFFIRMED IN SYNTHESIS:

A) THAT THE URUGUAYAN CITIZEN USISES SCOCOZZA-VALIENTE, NOW DETAINED AT THE DISPOSITION OF THE FEDERAL SUPREME COURT IS NOT THE PERSON SOUGHT BY THE U.S. GOVERNMENT.

B) THAT, BY ANY MANNER, THE FACTS ATTRIBUTED TO THE PERSON SOUGHT ARE NOT CHARACTERISTIC OF BRAZILIAN PENAL LAW.

3. WITH THE DOCUMENTS OF FOLIOS 246/250 THE DEFENSE PROVES THE ULISES SCOCOZZA-VALIENTE HAS A BROTHER, ULISES MARIO FELIPE SCOCOZZA-VALIENTE, WITH WHOM HE SHARES IN ADDITION TO SIMILAR NAMES A CLOSE PHYSICAL RESEMBLANCE. HE POINTS OUT THAT THE NAME INDICATED BY THE REQUESTING GOVERNMENT FRANCISCO SCOCOZZA-VALIENTE, KNOWN COMMONLY AS MARIO - IS CLOSER TO THAT OF HIS BROTHER THAN TO HIS OWN.

4. NOTHING CONTAINED IN THE ACTUAL DOCUMENTS INDICATED THAT THE PERSON SOUGHT HAS BEEN IN NORTH AMERICAN TERRITORY, AND/OR IDENTIFIED THESE AS A CRIMINAL. IN SUCH CONDITIONS, THE INTERESTED GOVERNMENT DID NOT PRESENT THIS INDIVIDUAL FINGERPRINT CARD NOR WOULD IT BE ABLE TO DO SO IF REQUESTED TO UPON THE CONVERSION INTO PROCEEDINGS OF THE JUDGMENT.

IS IS CERTAIN, NEVERTHELESS, THAT ONLY SUCH AN INDIVIDUAL FINGERPRINT IDENTIFICATION COULD DISSIPATE SUCH GREAT DOUBT, IT APPEARING SUELESS, A PRIORI, FOR A SIMPLE IDENTIFICATION OF PHOTOGRAPHS WHICH COULD BE REQUESTED OF THE ONLY INDIVIDUAL NOW UNDERGOING TRIAL, WHO DEALT PERSONALLY WITH THE LIMITED OFFICIAL USE

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EXTRADITEE IN URUGUAYAN TERRITORY.

EXTRADITION REQUEST NO. 330

5. AS ALREAYY STATED, ON THE OTHER HAND, THE URUGUAYAN CITIZEN WHOSE EXTRADITION THE USG SOLICITS DID NOT COMMIT A CRIME IN NORTH AMERICAN TERRITORY.

THE CRIMINAL ACTION COMES DESCRIBED IN FOLIOS 63/66 IN FOUR DISTINCT PARTS.

6. THE "FIRST ARTICLE OF ACCUSATION" INDICATES THAT THE EXTRADITEE, ONLY IN URUGUAY, FULLY CONSPIRED WITH A VIEW TO THE INTRODUCTION OF DRUGS INTO THE U.S. ALTHOUGH THE ATTEMPT WAS NOT CHARACTERIZED HE WOULD BE COVERED, NOT WITHSTANDING, BY THE TEXTS, TRANSCRIBED IN FOLIOS 77 AND 81 WHICH DEFINE CONSPIRACY AS A PUNISHABLE ACT.

7. HOWEVER, THIS ACT IS NOT COVERED UNDER BRAZILIAN PENAL LAW (DECREE LAW 941/69 ART. 88, II IN COMPARISON WITH ART. 27 OF PRESENT PENAL CODE.) IF IT SHOULD BE UNDERSTOOD IN ANY CASE THAT THE CRIME ALLUDED TO WAS COMPARABLE TO THE CRIME OF A GANG OR BAND (PENAL CODE, ART 288) IT WOULD BE NECESSARY TO RECOGNIZE THAT A SIMILAR CRIME WOULD HAVE BEEN CONSUMMATED AND COMPLETED ON URUGUAYAN TERRITORY.

8. FINALLY ALL THE "MANIFEST ACTS"WHICH ARE ATTRIBUTED TO THE EXTRADITEE (FOLIOS 65, ART. 2, 3, 4 OF THE ACCUSATION) OCCURRED WITHIN THE TERRITORIAL BOUNDARIES OF THE REPUBLIC OF URUGUAY BECOMING AUTONOMOUS CRIMES TO WHICH NORTH AMERICAN PENAL LAW CANNOT BE APPLICABLE ON THE BASIS OF THE NORMS LISTED IN THESE DOCUMENTS.

9. AS A RESULT OF THE PRESUMED IMPOSSIBILITY OF ANY ACTION TO ELIMINATE THE DOUBT AS TO THE IDENTITY OF THE EXTRADITEE, THE MANIFEST LACK OF EXISTENCE OF ACTS OF CONSPIRING IN THE LIGHT OF BRAZILIAN PENAL LAW, THE ATTORNEY GENERAL'S OFFICE OF THE REPUBLICS FINDS IT NECESSARY TO STATE ITS OPINION IN FAVOR OF DENYING THE EXTRADITION REQUEST.  
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BRASILIA, SEPT. 24, 1974

JOSE FRANCISCO REZEK  
ATTORNEY OF THE REPUBLIC

APPROVAL:

J.C. MOREIRA ALVES  
ATTORNEY GENERAL OF THE REPUBLIC

CRIMMINS

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## Message Attributes

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